

§ 175.61

reason(s) shall explain why the appellant believes the decision being appealed is in error, and shall include any argument(s) that the appellant wishes to make and any supporting document(s). The statement of reason(s) may be filed at the same time as the notice of appeal. If no statement of reason(s) is filed, the Area Director may summarily dismiss the appeal.

(c) Documents are properly filed with the Area Director when they are received in the facility officially designated for receipt of mail addressed to the Area Director, or in the immediate office of the Area Director.

(d) Within 30 days of filing of the statement of reason(s), the Area Director shall:

(1) Render a written decision on the appeal, or

(2) Refer the appeal to the Office of Hearings and Appeals Board of Indian Appeals for decision.

(e) Where the Area Director has not rendered a decision with 30 days of filing of the statement of reasons, the appellant may file an appeal with the Office of Hearings and Appeals Board of Indian Appeals pursuant to § 175.61.

§ 175.61 Appeals to the Interior Board of Indian Appeals.

(a) An Area Director's decision under this part, except a decision under § 175.11 or 175.13, may be appealed to the Office of Hearings and Appeals Board of Indian Appeals pursuant to the provisions of 43 CFR part 4, subpart D, except that a notice of appeal from a decision under § 175.12 shall be filed within 30 days of publication of the decision. The address for the Interior Board of Indian Appeals shall be included in the operations manual.

(b) Where the Area Director determines to refer an appeal to the Office of Hearings and Appeals Board of Indian Appeals, in lieu of deciding the appeal, he/she shall be responsible for making the referral.

(c) If no appeal is timely filed with the Office of Hearings and Appeals Board of Indian Appeals, the Area Director's decision shall be final for the Department of the Interior.

25 CFR Ch. I (4-1-01 Edition)

§ 175.62 Utility actions pending the appeal process.

Pending an appeal, utility actions relating to the subject of the appeal shall be as follows:

(a) If the appeal involves discontinuance of service, the utility is not required to resume such service during the appeal process unless the customer meets the utility's requirements.

(b) If the appeal involves the amount of a bill and:

(1) The customer has paid the bill, the customer shall be deemed to have paid the bill under protest until the final decision has been rendered on the appeal; or

(2) The customer has not paid the bill and the final decision rendered in the appeal requires payment of the bill, the bill shall be handled as a delinquent account and the amount of the bill shall be subject to interest, penalties, and administrative costs pursuant to section 3 of the Federal Claims Collection Act of 1966, As amended, 31 U.S.C. 3717.

(c) If the appeal involves an electric power rate, the rate shall be implemented and remain in effect subject to the final decision on the appeal.

PART 178—RESALE OF LANDS WITHIN THE BADLANDS AIR FORCE GUNNERY RANGE (PINE RIDGE AERIAL GUNNERY RANGE)

Sec.

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AUTHORITY: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2; 16 U.S.C. 3; 82 Stat. 663.

SOURCE: 34 FR 9985, June 28, 1969, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 178.1 Purpose.

The regulations in this part govern the reacquisition by former Indian and non-Indian owners of lands, or interests therein, acquired by the United

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States of America as a part of the Badlands Air Force Gunnery Range, sometimes referred to and known as the Pine Ridge Aerial Gunnery Range. The regulations also govern the acquisition by former Indian owners of life estates in national monument lands formerly owned by them and the acquisition of lieu lands when lands formerly owned by them are not available or are not desired by them for reacquisition. The legislative authority for reacquisition of lands or interests therein by former owners is the Act of August 8, 1968 (Pub. L. 90-468; 82 Stat. 663).

§ 178.2 Definitions.

(a) "Secretary" means the Secretary of the Interior or his duly authorized representative.

(b) "Superintendent" means the officer in charge of the Pine Ridge Indian Agency, Pine Ridge, S. Dak.

(c) "Act" means the Act of August 8, 1968 (Pub. L. 90-468; 82 Stat. 663).

(d) "Gunnery Range" means the area on the Pine Ridge Indian Reservation in South Dakota that was acquired by the United States for use of the Air Force commonly known as the Pine Ridge Aerial Gunnery Range or the Badlands Air Force Gunnery Range.

(e) "Monument" means the Badlands National Monument as enlarged by section 1 of the Act of August 8, 1968 (Pub. L. 90-468).

(f) "Tribe" means the Oglala Sioux Tribe of Indians of South Dakota.

§ 178.3 Eligibility to purchase.

(a) Any former owner of a tract of land or interest in a tract of land, whether title was held in trust or in fee, which was acquired by the United States as a part of the Gunnery Range may purchase such tract pursuant to the provisions of the Act and the regulations set forth in this part: *Provided*, Said tract has been declared excess to the needs of the Department of the Air Force, has been transferred to the administrative jurisdiction of the Secretary of the Interior, and is not within the boundaries of the Monument or within that portion of the Gunnery Range retained for use of the Department of the Air Force.

(b) If a former owner is deceased and is survived by a spouse, the spouse may

purchase under the same terms and conditions as the former owner except that if the former owner was an Indian whose land was held in trust and his surviving spouse is a non-Indian, the title to said tract shall be conveyed to the non-Indian spouse in a fee simple status.

(c) If the former owner is deceased and the spouse is also deceased, the children of the former owner may repurchase the tract.

(d) If the former owner is not survived by a spouse or children there exist no repurchase rights involving the tract.

(e) Not more than five former owners may join in purchasing a tract of land. "Former owner" means each person from whom the United States acquired an interest in a tract of land, or if such person is deceased, the surviving spouse, or if such spouse is deceased, his children. If more than five former owners apply to acquire a tract, the Superintendent shall notify them in writing that it will be necessary for them to agree among themselves as to the five or less of them who shall acquire the tract. If agreement among the owners is obtained, those individuals who are to acquire the tract shall then file an application to purchase it. The matter of reaching agreement among the owners is the sole responsibility of said owners and not the responsibility of the Department of the Interior and/or the Bureau of Indian Affairs to participate in the negotiations between the owners. If the former owners fail to reach such an agreement, all applications for the tract shall be rejected.

§ 178.4 Notice to former owners.

After publication of these regulations, there shall be published in the FEDERAL REGISTER notice that certain described lands and interests in lands have been transferred to the administrative jurisdiction of the Secretary and are available for repurchase by the former owners pursuant to section 3(b) of the Act. Upon transfer of administrative jurisdiction over lands that may thereafter be declared excess to the needs of the Department of the Air Force and acceptance by the Secretary,